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Attorneys for Defendants Apollo Group,
Inc., the University of Phoenix, Mechelle
Bonilla, Kyan Flynn, April Alcorn and
Carlyn Lindsten

UNITED STATES DISTRICT COURT – SOUTHERN DISTRICT OF
CALIFORNIA

CHAD MCKINNEY, an individual,
Plaintiff,

v.

APOLLO GROUP, INC.,
UNIVERSITY OF PHOENIX, a
Corporation, MECHELLE
BONILLA, an Enrollment Manager
at UNIVERSITY OF PHOENIX,
KYAN FLYNN, Director of
Enrollment at UNIVERSITY OF
PHOENIX, APRIL ALCORN, an
Employees Relations Consultant at
UNIVERSITY OF PHOENIX,
CARLYN LINDSTEN, Associate
Director of Enrollment at
UNIVERSITY OF PHOENIX

Defendants

CASE NO. 07-CV-2373 WQH CAB

**DECLARATION OF MATTHEW
MITCHEL IN SUPPORT OF
APOLLO GROUP, INC.'S MOTION
TO SET ASIDE ENTRY OF
DEFAULT**

[FRCP 55(c)]

DATE OF FILING: December 19, 2007

Snell & Wilmer

LLP
LAW OFFICES
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(714) 427-7000

1 I, Matthew Mitchell, declare as follows:

2 1. I am over the age of 18. I am employed by Apollo Group, Inc.
 3 ("Apollo") as VP, Human Resources Legal Services in the Human Resources
 4 Department. In that capacity, I oversee various human resources functions for
 5 Apollo and its employees. Additionally, I am familiar with the overall operations
 6 of both Apollo and the University of Phoenix, Inc. ("UOP"). Unless otherwise
 7 indicated, I state the following based on my own personal knowledge.

8 2. On January 31, 2008, Ms. Ellen Bowens was employed by UOP as an
 9 Operations Manager at its San Diego, California Campus. Ms. Bowens is not, and
 10 has never been, employed by Apollo. In carrying out her duties as an Operations
 11 Manager for UOP's San Diego Campus, Ms. Bowens reported to the Director of
 12 Student Services/Operations, Colleen Bjornson, who in turn reported to the San
 13 Diego Campus Director, Kim Savich. Ms. Bowens duties are to supervise entry
 14 level receptionists and administrative assistants, and she does not have, and has
 15 never been given, management responsibilities to direct UOP. Additionally, Ms.
 16 Bowens has never been an officer, managing agent, general manager or authorized
 17 agent able to accept service of process on behalf of UOP. To that end, Ms. Bowens
 18 has never been given management responsibilities to direct Apollo, nor has she ever
 19 been an officer, managing agent, general manager or authorized agent able to
 20 accept service of process on behalf of Apollo either.

21 3. UOP (including UOP Online) is a wholly owned subsidiary of its
 22 parent corporation, Apollo. Apollo is also the parent corporation for the Institute
 23 for Professional Development, the College for Financial Planning and Western
 24 International University. Apollo and UOP are independently incorporated Arizona
 25 corporations with separate functions, operations and employees. Moreover, UOP is
 26 authorized as a foreign corporation able to business in California; Apollo is not. As
 27 a result, UOP and Apollo are completely different entities.

28 ///

1 4. Given that: (1) the January 31, 2008 attempted service of process on Ms.
 2 Bowens was not directed to any entity or individual; (2) that Ms. Bowens is a UOP
 3 employee—and not employed by Apollo; and (3) that Ms. Bowens is not an officer,
 4 managing agent, general manager or authorized agent able to accept service of
 5 process on behalf of either UOP or Apollo, there was no reason to believe that
 6 Apollo had been given sufficient service of process by plaintiff Chad McKinney in
 7 the matter before The United States District Court Southern District of California,
 8 CIV. Case No. 07-cv-2373 filed on December 19, 2007.

9
 10 I declare under penalty of perjury under the laws of the State of California
 11 that the foregoing is true and correct.

12
 13 Dated: March 6, 2008

14 
 15 Matthew Mitchell
 16 VP, HR Legal Services

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PROOF OF SERVICE*USDC – Southern District, Case No. 07-CV-2373 WQH CAB*

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa Mesa, California 92626.

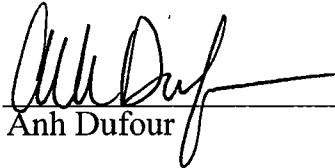
On March 7, 2008, I served, in the manner indicated below, the foregoing document described as **DECLARATION OF MATTHEW MITCHEL IN SUPPORT OF APOLLO GROUP, INC.'S MOTION TO SET ASIDE ENTRY OF DEFAULT** on the interested parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa, addressed as follows:

Chad McKinney Pro Se 6266 Madeline Street, Apt. #61 San Diego, CA 92115	Plaintiff Tel: 619-634-3566
United States District Court Attention: Hon. Judge William Q. Hayes 940 Front Street San Diego, CA 92101	

☒ BY FEDERAL EXPRESS: I caused such envelopes to be delivered by air courier, with next day service, to the offices of the addressees. (C.C.P. § 1013(c)(d)).

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on March 7, 2008, at Costa Mesa, California.


Anh Dufour